

REMARKS

The non-final Office Action of March 25, 2004 has been received and carefully reviewed. By the above actions, claims 1, 3-6 have been amended, claim 2 has been canceled and new claim 7 added. Therefore, claims 1, 3-7 are currently pending with claims 1 and 7 being independent. The Examiner's indication that claim 3 would be allowable if placed into independent form, including the limitations of the independent claim and any intervening claim, is greatly appreciated. However, no action to effect such an amendment has been taken at this time since the Applicant is of the opinion that claims 1, 4-6 and 7 are also allowable in light of the amendments above and the arguments to follow.

Initially, it is noted that claim 3 has not been rejected, under § 112(second paragraph), as indicated at page 4 of the Office Action. Further, it is noted that claim 5 is dependent upon claim 3, and, therefore, would be subject to the same indication of allowability as set forth with regard to claim 3. The Examiner is respectfully requested, in the next Office Action, to clarify the status of claims 3 and 5.

With regard to the Examiner's rejection of claims 1-2, under 35 U.S.C. § 102(b), as being anticipated by the teachings of Nojiri et al. ('528) and the rejection of claims 4-6, under 35 U.S.C. § 103(a), as being obvious in view of the combination of teachings of Nojiri et al. ('528) and Onodera et al. ('670), the Applicant respectfully traverses each of these rejections.

Specifically, the instant independent claim 1 sets forth a device controller comprising the following features:

...an operation section which can send an operation signal to a device for achieving an original functionality; and

a controlling section for notification, at a point in time at which the device becomes able to receive the operation signal from the operation section, that the device has become able to receive the operation signal from the operation section by actuating a function that the device has for achieving the original functionality to thereby change an operational state of the device from a present condition to a condition that is different from the present condition of the device,

wherein, immediately after the different condition is achieved, the controlling section completes the notification by changing the operational state of the device from the different condition to the present condition. (Emphasis added)

Similarly, the instant independent claim 7 (which replaces original claim 2) recites a device controller as follows:

...an operation section which can send an operation signal to a device, for achieving an original functionality, disposed at a position spaced apart from the operation section; and

a controlling section which, at a point in time at which the controlling section becomes able to receive the operation signal from the operation section,

changes an operational state of the device from a current condition to a condition that is different from the current condition of the device by actuating a function that the device has for achieving the original functionality, and

immediately returns the device, after achieving the different condition, to the current condition by again actuating the function of the device for achieving the original functionality. (Emphasis added)

The Applicant asserts that each of the highlighted features above are not taught or suggested by Nojiri et al or Onedera et al.

That is, the instant invention, for example in the embodiments of the invention shown in:

Figures 13A-13B and discussed in the specification at page 22, lines 7-19, or

Figures 14A-14B and discussed in the specification at page 22, line 20, to page 23, line 23,

Figures 15A-15B and discussed in the specification at page 24, line 5, to page 25, line 11, or

Figures 16A-16B and discussed in the specification at page 25, line 17, to page 26, line 15,

sets forth a operation section (Figures 1, 3; element 40, 42, 44) and a controlling section (Figures 2, 3; elements 52-58, 62-84, 88) which together perform a coordinated operation of the 1) control section initially notifying the user (driver of a

vehicle) that the operational section is in proper operational position for carrying out the desired function of the vehicle component by momentarily operating the vehicle component, for example by:

moving the vehicle window a small distance from its original position (perceptible to the driver) and immediately returning the window to its original position,

moving a sun roof a small distance from its original position (perceptible to the driver) and immediately returning the window to its original position, and,

thereafter, 2) permitting the operational section to operate the vehicle component as desired.

The Examiner, by the indication that original claim 3 would be allowable, has indicated that neither Nojiri et al. or Onedera et al. teach or suggest the above highlighted features. Specifically, a detailed review of the Nojiri et al. reference reveals that the patentees do not teach or even remotely suggest the instantly claimed controller device. That is, Nojiri et al. teach a coordinated system for permitting the driver of a vehicle to operate any of a multitude of vehicle components, i.e., radio, mirror, air conditioner, by providing means (3) to activate the coordinated system (Figures 1-5; elements 2, 3, 4, 8) which upon activation of the switch (2), proceeds to issue audio commands identifying a component, e.g., radio, and then waits, e.g., 2 seconds, for a response from the driver, via the switch (2), to select that component. If selected, then the system proceeds through a series of audio prompts, again waiting 2 seconds before issuing the next audio prompt. Within that 2 second interval, the driver can select the function of the vehicle component, e.g., volume, again via the switch (2). The driver can then adjust the function of the vehicle component using the manipulative switch, e.g., select UP to increase the volume or DOWN to decrease the volume (see column 5, line 56, to column 10, line 41). At no time does the coordinated system of Nojiri et al. provide a notification to the driver, prior to

activation of the vehicle component function, that the vehicle component has been selected by momentarily activating the vehicle component function (e.g., to increase the volume of the radio) before immediately returning the vehicle component to its original operational state (return the volume to its original setting) as is required by the instantly claimed invention set forth in claims 1 and claim 7 (previous claim 2).

Since the Nojiri et al. reference does not teach (explicitly or implicitly) the above highlighted claimed feature of the invention, the rejection, under § 102(b), of claims 1 and 2 is not appropriate and must now be withdrawn.

Turning to the rejection of claims 4-6, under 35 U.S.C. § 103(a), as being obvious in view of the combination of teachings of Nojiri et al. ('528) and Onodera ('670), the Applicant further respectfully traverses this rejection. A review of the Onedera et al reference reveals that, while the patentees do teach providing a signal to a driver indicating a vehicle component has been selected, i.e., momentary vibration to the driver's hand on the control lever or a sound from a speaker providing a distinctive vibration or sound depending the vehicle function selected (see column 4, lines 5-65), the patentees do not teach providing the notification to the driver that a vehicle component has been selected by momentarily activating the functionality of the vehicle component, e.g., perceptibly opening the sunroof, raising the volume of the radio, or moving the side window, before returning the vehicle component to the position it was in before it was selected.

If the coordination system of Onedera et al. were to be combined with the teachings of Nojiri et al., the manipulative button (2) of Nojiri et al. would likely be replaced by the manual controller (5) of Onedera et al. and the driver would have to learn a set of distinct indicators, e.g., vibrations or sounds, each indicative of the vehicle component which is to be actuated. Such a combination of teachings, besides being cumbersome to learn, would not yield the presently claimed which requires that the actual vehicle component be momentarily, perceptibly activated to provide the

notification (to the driver), and then the component is returned to its original operational condition before activation.

Since each feature of the presently claimed invention is not taught, or even remotely suggested, by the combination of the Nojiri et al. and Onodera et al. references, and since neither reference or the Examiner provides any motivation to modify the teachings of Nojiri et al. to provide the notification via momentary activation of the vehicle component as presently claimed, a *prima facie* case of obviousness has not been established by the combined teachings of Nojiri et al and Onehera et al. Consequently, the rejection, under § 103(a), of claims 4-6 is also not appropriate and must now be withdrawn.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,

By: Thomas W. Cole
Thomas W. Cole
Registration No. 28,290

NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, DC 20004-2128
Office: (202) 585-8000
Facsimile: (202) 585-8080